

CHAPTER 16
BOARDS AND COMMISSIONS; PURCHASING

TABLE

16-02	Purchasing Appeals Board Members, Meetings
16-05	Purchasing
16-07	Library employees; vacations
16-08	Boards and commissions, funds

16-02. Purchasing Appeals Board: Members, Meetings. 1. MEMBERS. a. The purchasing appeals board shall be composed of the mayor, the commissioner of public works, the chair of the common council committee on finance and personnel, the director of administration, the city comptroller, the president of the common council; and 2 city employees, one each appointed by the mayor and the president of the common council. The mayor and common council president shall make their respective city employee member appointments within 60 days after assuming office or within 60 days after a vacancy occurs in such board position, whichever is later.

b. Members, with the exception of the 2 city employee members, may designate alternates in writing by filing with the city clerk's office. Such alternates may represent their respective principal members and exercise all powers of principal members when such members are unable to attend board or committee meetings.

2. VOTING PROCEDURES. Each board member shall have one vote. The mayor shall be chair of the board and shall call all meetings except such as may be provided for by the action or rules of the board. In the absence of the mayor, the vice chair of the board shall preside. Five members shall constitute a quorum.

3. DUTIES AND RESPONSIBILITIES. The board: a. Shall hear bidder, common council member and city department specification appeals as provided herein.

b. Shall hear bidder award appeals of recommendations made by the city purchasing director as to the apparent low responsive bidder as provided herein.

c. Shall adopt bylaws for conduct of board business.

16-05. Purchasing. 1. DUTIES, POWERS.

a. Authority to purchase. There is created a division of business operations in the department of administration. The division shall be under the direction and control of the city purchasing director who shall be subject to the direction and control of the director of administration. The city purchasing director shall have full power, subject to s. 16-02, to purchase or to provide for the purchase of all materials, supplies, equipment and services for the use of all departments, boards or commissions comprising the city government, including materials, supplies and equipment and services funded through such special purpose accounts as the common council may indicate, except when otherwise specifically provided by local or state law. Such purchases shall be made upon requisition by the proper officials of said boards, commissions or departments from funds provided by the common council, provided that nothing in this section shall be construed to prevent the city purchasing director from making purchases or contracts in anticipation of the needs of departments, boards and commissions or from maintaining store of commodities in anticipation of needs. This power and authority to make all purchases shall not be construed to include contracts for public works where materials, supplies or equipment are furnished by the contractor as part of the requirements of a contract or to include demolition of any building or structure or part thereof which is being razed pursuant to the provisions of s. 66.0413 or 823.22, Wis. Stats., as such sections now exist or as they may read by reason of amendment, or for the abatement of nuisances in accordance with applicable city ordinances. The commissioner of neighborhood services shall have full power and authority to provide for the demolition of any building or structure or part thereof being razed pursuant to the Wisconsin statutes, or for the abatement of nuisances in accordance with applicable city ordinances.

b. Special equipment, etc. Any department, board or commission comprising the city government may with the authorization of the city purchasing director purchase independently such materials, supplies equipment or services of a special character as

16-05-2 Boards and Commissions; Purchasing

are used only by it, or which may be decided by the city purchasing director may be more efficiently purchased by any such department, board or commission than by the city purchasing director if a department, board or commission acts pursuant to the authority set forth herein, any written contract resulting therefrom shall be executed by the head of the department or the chair of the board of commission as the case may be and to be countersigned by the city purchasing director and the city comptroller. The city purchasing director is authorized to promulgate such standards and rules as he or she deems necessary to effectuate the provisions set forth herein.

2. CONTRACTS, BIDDING. a. All such work, items, materials, supplies, equipment and services, except as otherwise provided herein, when the estimated cost thereof shall exceed \$30,000, shall be purchased from the lowest responsible bidder, subject to bidding requirement exceptions under sub. 3, after due notice inviting proposals. Such notice shall be published in at least one official paper for at least 2 days preceding the last day set for the receipt of proposals. All such contracts where the actual cost exceeds \$30,000 shall be awarded by the city purchasing director and shall be purchased by formal written contract.

b. All contracts required to be purchased from the lowest responsible bidder under this subsection shall be purchased from the lowest responsible bidder determined in accordance with any applicable city ordinances for participation of emerging business enterprises which are in force.

2.5. APPEALS. Appeals as to specifications and recommendations for awards shall be filed and heard in the manner prescribed by the code.

a. Specifications. Appeals involving purchases estimated to exceed \$30,000 on specifications established by the city purchasing director shall be heard and determined by the purchasing appeals board.

b. Recommendations. Appeals from recommendations made by the city purchasing director for awards involving purchases which exceed \$30,000 for which bids were advertised shall be heard and determined by the purchasing appeals board. Appeals involving purchases under \$30,000 may be heard by the purchasing appeals board.

3. EXCEPTION TO BID REQUIREMENTS. a. The city purchasing director may, decide to negotiate, contract for and purchase work, services, materials, supplies, equipment, items or commodities without the necessity of securing formal competitive bidding whenever such work, services, materials, supplies, equipment, items or commodities are of such a nature as to make it impossible or impracticable to draw specifications satisfactorily to permit competitive bidding, can be furnished from only one source, constitute a special adaptation for a special purpose, or the performance of the work or services requires creative and individual talents, scientific knowledge, special skills or training, or artistic or professional skills, or is of a technical or experimental nature.

b. The purchasing director may negotiate amendments to any existing contracts.

c. Bidding requirements shall not be applicable to any purchase of materials, supplies, equipment, items or commodities from the federal or state government, another municipality or any of the agencies thereof.

4. COOPERATIVE PURCHASING.

a. The provisions of this section shall not apply whenever the city purchasing director on behalf of the city by agreement with another political subdivision of the state, the state and the federal government, agrees to enter into cooperative purchasing of any item or service which the director could purchase on behalf of the city acting alone. When the city purchasing director approves an agreement for participating with any such political subdivision or government entity as aforesaid in cooperative purchasing and such body purchases the item or service through competitive bidding, the city purchasing director may participate in the purchase of such item or service with such entity as aforesaid without necessity of securing competitive bids on such item or service.

b. The city purchasing director may, acting on behalf of the city, enter into agreement with any political subdivision of the state of Wisconsin or association of public purchasers with respect to cooperative purchase of any item or service which the city purchasing director could purchase on behalf of the city acting alone. When the city purchasing director approves a cooperative purchasing agreement with any political

subdivision of the state of Wisconsin or association of public purchasers, any item or service may be purchased by the director in accordance with the provisions of the charter pursuant to the cooperative purchasing agreement. For purposes of this paragraph, an "association of public purchasers" means any group consisting of 2 or more political subdivisions of the state of Wisconsin.

6. ARBITRATION OF DISPUTES.

The city purchasing director is authorized to incorporate in, or make applicable to any one or all contract documents to purchase or procurements, the provisions of ch. 788, Wis. Stats., (arbitration), whenever the city purchasing director deems it proper.

7. ESCALATOR PROVISIONS. Bid invitations and contracts upon approval of the city purchasing director may include escalator provisions for additional charges for goods, supplies, materials or equipment if as a result of limited supplies or general inflation the rates and prices of the same to the contractor increase during the performance of the contract. Such escalator provision, if utilized, shall be applicable to all bidders and shall not exceed 15% of the firm bid per year during the period of the performance of such contract; however, in no event shall any such escalation amount exceed the amount of increase actually incurred during the year by the contractor, and only if sufficient funds have been appropriated or are available therefor. Such increase shall be substantiated to the satisfaction of the city purchasing director and shall not be effective until approved by the director. Each bid on a contract which is to contain multiple items and which is to include an escalator provision only as to some items shall be accompanied by a schedule enumerating the estimated rates or prices of items or goods, materials, supplies or equipment used in arriving at the bid, and only as to such items so enumerated shall an increased charge be allowed to the contractor.

8. SUPPLIES PURCHASED WITH FEDERAL AND STATE GRANTS. Whenever materials, supplies, equipment or services are to be acquired in connection with federal or state assistance or a grant funded program, the provisions of the city charter, or general ordinances, rules, regulations or guidelines for procurement relating thereto shall apply, provided, that such provisions meet the minimum requirements of federal and/or state

laws, rules, regulations and guidelines applicable to such assistance or grant funded program. If any provisions of the city charter, or its ordinances, rules, regulations or guidelines contravene such federal and/or state provisions relating to such assistance or grant funded program so that the result does not meet the minimum requirements of the federal and/or state laws, rules, regulations and guidelines, then, to that extent, the provisions of the charter, local ordinances, rules, regulations and guidelines shall be deemed to be superceded by the federal and/or state laws, rules, regulations or guidelines applicable to such assistance or grant funded programs.

9. DE-ESCALATOR PROVISIONS.

Bid invitations and contracts upon approval of the city purchasing director may include de-escalator provisions which would provide that any goods, supplies, materials or equipment being purchased by the city will be subject to any price reductions which are announced by the bidder within the 6 months following execution of the purchase contract, and such price reductions are then to be passed on to the city as reductions in the total costs of the goods, supplies, materials or equipment purchased or being purchased.

10. FUTURES CONTRACT. The city purchasing director may purchase and sell future contracts in heating, oil, crude oil or gasoline on the New York Mercantile Exchange as a means of protecting the cash market price on a future date. Such purchases and sales may be made in an amount not exceeding 100% of the funds budgeted annually for purchasing such commodities. In this subsection, "futures contract" means a legally binding commitment to make or take delivery of a given quantity and quality of a commodity at a price agreed upon in the trading pit or ring of a commodity exchange at the time the contract is executed.

16-07. Library Employees; Vacations. The annual vacation period of any officer or employee of the board of trustees of the Milwaukee public library who receives a monthly salary shall be the same as that permitted by ordinance to such city employees who receive a monthly salary as are employed by any department under the control of the common council.

16-08 Boards and Commissions; Purchasing

16-08. Boards and Commissions, Funds.

1. TAX LEVY. The common council shall hereafter provide such funds for the annual support of the work of the board and commissions named in this chapter as to it may seem just and advisable, and it is authorized to levy the same upon all the taxable property thereof in the manner provided for the levy of general city taxes and such funds so raised shall not be used for any other purpose.

2. COUNCIL APPROVAL. Except as hereinbefore provided, each board and commission herein mentioned, shall continue to exercise all duties and powers heretofore exercised by it, except that no action of such board or commission, creating new positions, or fixing the compensation to be paid to the incumbents of such positions, or increasing the compensation to be paid for services rendered in any positions, shall be operative until such action has been approved by the common council. Nothing herein contained shall be construed to prevent adjustments of the compensation paid to employees and officers within the limits of such scale of wages and salaries as may have been or may be authorized or approved by the common council.

Boards and Commissions; Purchasing 16--(HISTORY)

LEGISLATIVE HISTORY CHAPTER 16

Abbreviations:

am = amended
cr = created

ra = renumbered and amended
rc = repealed and recreated

rn = renumbered
rp = repealed

<u>Section</u>	<u>Action</u>	<u>File</u>	<u>Passed</u>	<u>Effective</u>
16-0	am	881142	10/11/88	12/25/88
16-01	rc	881142	10/11/88	12/25/88
16-01	rc	882559	4/25/89	7/2/89
16-01	rp	921112	10/30/92	1/27/93
16-02	rp	881142	10/11/88	12/25/88
16-02	cr	900673	10/13/92	1/27/93
16-02	rc	921112	10/30/92	1/27/93
16-02	rc	020885	11/8/2002	1/27/2003
16-02-1	am	84-1860	3/22/85	6/8/85
16-02-1-a	am	960230	6/4/96	8/20/96
16-02-3-a	am	980099	5/27/98	8/13/98
16-03	rp	881142	10/11/88	12/25/88
16-04	rp	881142	10/11/88	12/25/88
16-05	rc	020885	11/8/2002	1/27/2003
16-05-0	rc	881142	10/11/88	12/25/88
16-05-1	am	881142	10/11/88	12/25/88
16-05-1	am	900673	10/13/92	1/27/93
16-05-1-a	am	882559	4/25/89	7/12/89
16-05-1-b	am	930452	7/27/93	10/12/93
16-05-2	Note	890756	9/1/89	11/18/89
16-05-2	am	900673	10/13/92	1/27/93
16-05-2-a	am	86-1898	2/24/87	5/12/87
16-05-2-a	am	921112	10/30/92	1/27/93
16-05-2-a	am	971616	2/10/98	4/28/98
16-05-2-b	rp	921112	10/30/92	1/27/93
16-05-2-c	cr	901996	4/23/91	7/9/91
16-05-2-c	m to 16-05-2-b	921112	10/30/92	1/27/93
16-05-2.5	cr	900673	10/13/92	1/27/93
16-05-2.5	rc	921112	10/30/92	1/27/93
16-05-3-a	am	881142	10/11/88	12/25/88
16-05-3-a	am	900673	10/13/92	1/27/93
16-05-3-a	rc	921112	10/30/92	1/27/93
16-05-3-b	am	881142	10/11/88	12/25/88
16-05-3-b	am	900673	10/13/92	1/27/93
16-05-3-b	m to 16-05-3-c	921112	10/30/92	1/27/93
16-05-3-b	cr	921112	10/30/92	1/27/93
16-05-3-c	m to 16-05-3-d	921112	10/30/92	1/27/93
16-05-3-c	rc	940062	5/17/94	8/3/94
16-05-4	am	881142	10/11/88	12/25/88
16-05-4	m to 16-05-4-a	901345	1/22/91	4/9/91
16-05-4	am	900673	10/13/92	1/27/93
16-05-4-b	cr	901345	1/22/91	4/9/91
16-05-5	rp	881142	10/11/88	12/25/88
16-05-5	cr	900673	10/30/92	1/27/93
16-05-5	rp	921112	10/30/92	1/27/93

16--(HISTORY) Boards and Commissions; Purchasing

16-05	rc	020885	11/8/2002	1/27/2003
16-05-6	am	881142	10/11/88	12/25/88
16-05-6	am	900673	10/13/92	1/27/93
16-05-7	am	881142	10/11/88	12/25/88
16-05-7	am	900673	10/13/92	1/27/93
16-05-9	am	900673	10/13/92	1/27/93
16-05-10	cr	901250	3/26/91	6/11/91
16-05-10	am	900673	10/13/92	1/27/93
16-06	rp	880330	2/14/89	5/6/89
16-09	rp	891264	11/17/89	2/12/90
16-11	rp	881142	10/11/88	12/25/88
16-12	rc	971422	2/10/98	4/28/98
16-12	rp	020885	11/8/2002	1/27/2003
16-12-4	rc	001662	9/25/2001	12/10/2001
16-12-12	cr	85-4	5/14/85	7/30/85